HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 20985 OF 2007

DATE: 05.10.2007

Between:

SK Pyarijan, W/o Mamoosa, aged about 59 Years.

...Petitioner

AND

1. The District Collector, Nellore District, Nellore and one another

....Respondents

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ORAL ORDER:

It is the case of the petitioner that she was granted house site patta for 5 Ankanams of Government Poramboke in Nellore, bit-1 Plot No. 61 in the form and part of Kondadibba area, Mulapet, Nelore by the then Tahsildar, Nellore on 21.8.1981. While so one Mr. Sk. Pachabi Rehana W/o Ghousebasha and Sk. Hussainbi W/o Mastan Saheb, based on an agreement of sale filed a suit O.S.No. 978 of 1987 on the file of the III Additional Junior Civil Judge, Nellore, for permanent injunction restraining the petitioners from causing any disturbance to the peaceful possession and enjoyment of the plaint schedule house and the said suit was dismissed on 9.7.1998. Against which, the said plaintiff filed A.S.No. 58 of 1998 on the file of IV Additional District Judge, Nellore, and the appellate Court by an order dated 30.10.2004 allowed the appeal setting aside the judgment of the trial court and decreed the suit. But however, certain observations have been made in the said judgment that the land being an assigned property in favour of the petitioner herein, it is for the Government to take necessary action against the petitioner herein for allowing the plaintiffs to occupy a part of the land given to her and till the Government takes action, the petitioner herein cannot be interfered with the peaceful possession and enjoyment of the said plaintiffs.

Admittedly, the Government is not a party to the said suit or appeal, therefore, there is no legal impediment to take appropriate action against the authorized officer for contravention of provisions of 3(1) or 3(2) in exercise of powers vested by the authorized officer under provisions 4(1)(a) and (b) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (hereinafter called as “the Act”). It is stated that the petitioner made a representation to take appropriate action under the provisions of the above said Act, to restore the possession. But the said representation filed by the petitioner is before the Collector, therefore, I am of the opinion that the authorized officer to take action is the Mandal Revenue Officer or the Tahsildar under Section 4(1)(a)(b) of the Act, and such representation, as filed by the petitioner, has to be filed before the concerned authorized officer.

Accordingly, the writ Petition is disposed of and the petitioner is directed to make a representation before the second respondent and if any such representation is made the same shall be considered and dispose of the same in accordance with law. No order as to costs.

V. ESWARAIAH, J

Date: 05.10.2007
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